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PATTON BOGGS LLP 8484 WESTPARK DRIVE SUITE 900 MCLEAN, VA 22102			KOPPIKAR, VIVEK D	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/665,442	BROWN, STEPHEN J.
	Examiner	Art Unit
	Vivek D. Koppikar	3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 July 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 47-63 and 77-104 is/are pending in the application:
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 47-63 and 77-104 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date. _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Application

1. Claims 47-62 and 77-104 have been examined in this application. This office action is in response to the election of Claims 47-62 and 77-104 which was received on July 18, 2005.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 47, 55-57, 77, 84, 91, and 98 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent Number 5,339,821 to Fujimoto.

(A) As per claim 47, Fujimoto teaches a system for monitoring a physiological condition of a individual using a computer network (Fujimoto: Abstract), comprising:

(a) a first processing unit having access to one or more databases and performing operations according to monitoring application programming (Fujimoto: Figure 1 and Col. 2, Ln. 34-55), including

(i) generating a script program for collecting measuring device measurement data relating to the physiological condition of the individual (Fujimoto: Col. 4, Ln. 12-68), and

(ii) assigning the script program to the individual (Fujimoto: Col. 8, Ln. 8-39);

(b) a remote processing apparatus for signal connecting with a measuring device and receiving data corresponding to measurements of at least one parameter indicative of the physiological condition of the individual, and for signal connecting with the first processing unit for transmitting data corresponding to the measurements to the first processing unit according to instructions contained in the script program including a transmit command for transmitting the data to the first processing unit (Figure 1; Col. 2, Ln. 32-55; Col. 4, Ln. 12-68 and Col. 8, Ln. 8-39)

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(c) a workstation for connecting to the first processing unit and receiving data

corresponding to the measurements so that a health care provider may review a report generated based on the collected data (Fujimoto: Figure 1 and Col. 2, Ln. 32-44).

(B) As per claim 55, in Fujimoto the script program includes queries and response choices for the individual (Fujimoto: Col. 4, Ln. 25-58).

(C) As per claim 56, in Fujimoto the remote apparatus includes input means for the individual to input responses to the queries to be communicated to the first processing unit for review by the health care provider (Fujimoto: Col. 4, Ln. 14-58 and Col. 8, Ln. 13-39)

(D) As per claim 57, in Fujimoto the remote apparatus being sufficiently compact to be hand-held and carried by the individual (Fujimoto: Figure 2 and Col. 2, Ln. 56-68).

(E) As per claim 77, Fujimoto teaches a method of monitoring a physiological condition of an individual using a computer network at least including a first processing apparatus and a remote processing apparatus, the first processing unit having a script program stored therein including instructions permitting measuring device measurement data to be received from the remote apparatus, the remote apparatus for receiving the measurement data from a signal coupling with a measuring device that measures at least one parameter indicative of the physiological condition (Fujimoto: Abstract and Figures 1 and 2), the method including:

storing a script assignment for associating the script program with the individual (Fujimoto: Col. 8, Ln. 8-39);

connecting the first processing unit with the remote apparatus (Fujimoto: Col. 2, Ln. 32-55; Col. 3, Ln. 7-29 and Col. 7, Ln. 67-Col. 8, Ln. 8);

executing the script program including a measuring device measurement data transmit command; and transmitting measuring device measurement data from the remote processing apparatus to the first processing unit upon execution of the transmit command of the script program (Fujimoto: Col. 4, Ln. 14-68 and Col. 8, Ln. 8-39).

(F) As per claim 84, Fujimoto teaches a method of monitoring a physiological condition of an individual using a computer network at least including a first processing apparatus and a remote processing apparatus, the first processing unit having a script program stored therein including instructions permitting measuring device measurement data to be received from the remote processing apparatus, the remote apparatus for receiving the measurement data from a signal coupling with a measuring device that measures at least one parameter indicative of the physiological condition (Fujimoto: Abstract and Figures 1-2), the method including:

collecting device measurement data by the remote processing apparatus from the measuring device according to a collect command of one or more script programs received from the first processing apparatus (Fujimoto: Col. 4, Ln. 14-68 and Col. 8, Ln. 8-39);

connecting the remote processing apparatus to interface with the first processing apparatus (Fujimoto: Col. 6, Ln. 7-29 and Col. 8, Ln. 8-39); and

transmitting the device measurement data from the remote processing apparatus to the first processing unit (Fujimoto: Figure 1 and Col. 8, Ln. 8-39).

(G) As per claim 91, Fujimoto teaches one or more processor readable storage devices having processor readable code embodied thereon, said processor readable code for programming one or more processors to perform a method of monitoring a physiological condition of an individual using a computer network at least including a first processing apparatus and a remote processing apparatus, the first processing unit having access to a script program stored within the one or more storage devices including instructions permitting measuring device measurement data to be received from the remote processing apparatus, the remote apparatus for receiving the measurement data from a signal coupling with a measuring device that measures at least one parameter indicative of the physiological condition (Fujimoto: Abstract and Figures 1-2), the method including:

storing a script assignment for associating the script program with the individual (Fujimoto: Col. 8, Ln. 8-39);

connecting the first processing unit with the remote apparatus (Fujimoto: Col. 3, Ln. 7-29);

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executing the script program including a measuring device measurement data transmit command (Fujimoto: Col. 4, Ln. 14-68 and Col. 8, Ln. 8-39); and

transmitting measuring device measurement data from the remote apparatus to the first processing unit upon execution of the transmit command of the script program (Fujimoto: Figures 1-2; Col. 3, Ln. 7-57 and Col. 8, Ln. 8-39).

(H) As per claim 98, Fujimoto teaches one or more processor readable storage devices having processor readable code embodied thereon, said processor readable code for programming one or more processors to perform a method of monitoring a physiological condition of an individual using a computer network at least including a first processing apparatus and a remote processing apparatus, the first processing unit having access to a script program stored in the one or more storage devices including instructions permitting measuring device measurement data to be received from the remote processing apparatus, the remote apparatus for receiving the measurement data from a signal coupling with a measuring device that measures at least one parameter indicative of the physiological condition (Fujimoto: Abstract and Figures 1-2), the method including:

collecting device measurement data by the remote processing apparatus from the measuring device according to a collect command of one or more script programs received from the first processing apparatus (Fujimoto: Col. 4, Ln. 14-68 and Col. 8, Ln. 8-39)

connecting the remote processing apparatus to interface with the first processing apparatus (Fujimoto: Col. 3, Ln. 7-57) ; and

transmitting the device measurement data from the remote processing apparatus the first processing unit (Fujimoto: Col. 3, Ln. 7-57 and Col. 8-39).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 48-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,339,821 to Fujimoto as applied to Claim 47 above and in view of US Patent Number 6,421,633 to Heinonen.

(A) As per claim 48, Fujimoto does not teach that the physiological condition includes diabetes, the measuring device includes a blood glucose measurement device, and the monitoring device measurement data includes blood glucose data, however these features are well known in the art as evidenced by Heinonen (Col. 1, Ln. 9-23-Col. 3, Ln. 53-Col. 4, Ln. 34). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have added these aforementioned features from Heinonen to the system of Fujimoto with the motivation of providing a patient with a means of regularly checking their blood glucose level using a self-testing kit, as recited in Heinonen (Col. 1, Ln. 9-11).

(B) As per claim 49, in the combined system of Fujimoto in view of Heinonen the workstation further comprises script entry programming for permitting input by the health care provider that is communicated to the first processing unit based on which the first processing unit generates and assigns to the individual the script program (Fujimoto: Col. 8, Ln. 8-21).

(C) As per claim 50, in the combined system of Fujimoto in view of Heinonen the script programming includes a collect command for collecting the blood glucose measurements from the measuring device (Fujimoto: Col. 4, Ln. 13-28).

(D) As per claim 51, in the combined system of Fujimoto in view of Heinonen the monitoring application programming further providing instructions for the first processing unit to generate said report based on the collected blood glucose data (Fujimoto: Col. 8, Ln. 35-40).

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(E) As per claim 52, in the combined system of Fujimoto in view of Heinonen the remote processing apparatus further includes a script interpreter for executing the script program (Fujimoto: Col. 8, Ln. 8-39).

(F) As per claim 53, in the combined system of Fujimoto in view of Heinonen the generating and assigning of the script program includes appending a unique patient identification code to the script program for the individual (Fujimoto: Col. 8, Ln. 15-21).

(G) As per claim 54, in the combined system of Fujimoto in view of Heinonen the monitoring application programming further instructs the first processing unit to store the script program in a database, the assignment of the script program including generating a pointer to the script program for the individual for storing in a look-up table associated with the database (Fujimoto: Col. 8, Ln. 15-39).

6. Claims 59-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,339,821 to Fujimoto in view of US Patent Number 6,421,633 to Heinonen

(A) As per claim 59, Fujimoto teaches a system for monitoring a physiological condition of an individual using a computer network, comprising:

(a) a first processing unit having access to one or more databases and performing operations according to monitoring application programming (Fujimoto: Figure 1 and Col. 2, Ln. 34-55), including

(i) generating a script program for collecting measuring device measurement data relating to the physiological condition of the individual (Fujimoto: Col. 4, Ln. 12-68), and

(ii) assigning the script program to the individual (Fujimoto: Col. 8, Ln. 8-39);

(b) a remote processing apparatus for signal connecting with a measuring device and receiving data corresponding to measurements of at least one parameter indicative of the physiological condition of the individual according to instructions contained in the script program including a collect command for collecting data from the measuring device, and for

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signal connecting with the first processing unit (Fujimoto: Col. 2, Ln. 2, Ln. 32-55; Col. 4, Ln. 12-68 and Col. 8, Ln. 8-39); and

(c) a workstation for connecting to the first processing unit and receiving data corresponding to the measurements so that a health care provider may review a report generated based on the collected data (Fujimoto: Figure 1 and Col. 2, Ln. 32-44).

Fujimoto does not teach that the data relating to the physiological condition of the individual is blood glucose measurement data, however it is well known in the art to measure blood glucose data using a measuring device, as evidenced by Heinonen (Col. 1, Ln. 9-23-Col. 3, Ln. 53-Col. 4, Ln. 34). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have added this aforementioned feature from Heinonen to the system of Fujimoto with the motivation of providing a patient with a means of regularly checking their blood glucose level using a self-testing kit, as recited in Heinonen (Col. 1, Ln. 9-11).

(B) As per claim 60, in the combined system of Fujimoto in view of Heinonen the physiological condition including diabetes, the measuring device including a blood glucose measurement device, and the measuring device measurement data including blood glucose data (Fujimoto: Col. 2, Ln. 33-40).

(C) As per claim 61, in the combined system of Fujimoto in view of Heinonen the workstation further comprises script entry programming for permitting input by the health care provider that is communicated to the first processing unit based on which the first processing unit generates and assigns to the individual the script program (Fujimoto: Col. 8, Ln. 8-21).

(D) As per claim 62, in the combined system of Fujimoto in view of Heinonen the monitoring application programming further provides instructions for the first processing unit to generate said report based on the collected blood glucose data (Fujimoto: Col. 8, Ln. 35-40).

7. Claims 78-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,339,821 to Fujimoto as applied to Claim 77 above and in view of US Patent Number 6,421,633 to Heinonen.

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(A) As per claim 78, Fujimoto does not teach that the physiological condition includes diabetes, the measuring device includes a blood glucose measurement device, and the monitoring device measurement data includes blood glucose data, however these features are well known in the art as evidenced by Heinonen (Col. 1, Ln. 9-23-Col. 3, Ln. 53-Col. 4, Ln. 34). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have added these aforementioned features from Heinonen to the method of Fujimoto with the motivation of providing a patient with a means of regularly checking their blood glucose level using a self-testing kit, as recited in Heinonen (Col. 1, Ln. 9-11).

(B) As per claim 79, the combined method of Fujimoto in view of Heinonen further includes generating a report based upon the collected blood glucose measurement data (Fujimoto: Col. 2, Ln. 33-40).

(C) As per claim 80, the combined method of Fujimoto in view of Heinonen further includes transmitting the report to a workstation connected with the first processing unit (Fujimoto: Col. 8, Ln. 8-39).

(D) As per claim 81, in the combined method of Fujimoto in view of Heinonen the report includes a graph including several blood glucose data measurements (Fujimoto: Col. 8, Ln. 31-39).

(E) As per claim 82, the combined method of Fujimoto in view of Heinonen further includes collecting measuring device measurement data by the remote processing apparatus from the measuring device according to a collect command of one or more scrip programs received from the first processing apparatus (Fujimoto: Col. 8, Ln. 8-39).

(F) As per claim 83, the combined method of Fujimoto in view of Heinonen further includes prompting for device connection to the remote processing apparatus; and connecting the remote processing apparatus to interface with the blood glucose measurement device (Fujimoto: Col. 3, Ln. 7-29 and Col. 7, Ln. 67-Col. 8, Ln. 8).

8. Claims 85-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,339,821 to Fujimoto as applied to Claim 84 above and in view of US Patent Number 6,421,633 to Heinonen.

(A) As per claim 85, Fujimoto does not teach that the physiological condition includes diabetes, the measuring device includes a blood glucose measurement device, and the monitoring device measurement data includes blood glucose data, however these features are well known in the art as evidenced by Heinonen (Col. 1, Ln. 9-23-Col. 3, Ln. 53-Col. 4, Ln. 34). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have added these aforementioned features from Heinonen to the method of Fujimoto with the motivation of providing a patient with a means of regularly checking their blood glucose level using a self-testing kit, as recited in Heinonen (Col. 1, Ln. 9-11).

(B) As per claim 86, the combined method of Fujimoto in view of Heinonen further includes generating a report based upon the collected blood glucose measurement data (Fujimoto: Col. 8, Ln. 8-39).

(C) As per claim 87, the combined method of Fujimoto in view of Heinonen further includes transmitting the report to a workstation connected with the first processing unit (Fujimoto: Col. 8, Ln. 7-21).

(D) As per claim 88, in the combined method of Fujimoto in view of Heinonen the report includes a graph including several blood glucose data measurements (Fujimoto, Col. 8, Ln. 31-39).

(E) As per claim 89, the combined method of Fujimoto in view of Heinonen further includes prompting for device connection to the remote processing apparatus; and connecting the remote processing apparatus to interface with the blood glucose measurement device (Fujimoto: Col. 3, Ln. 7-29 and Col. 7, Ln. 63-Col. 8, Ln. 7).

(F) As per claim 90, in the combined method of Fujimoto in view of Heinonen the transmitting of the blood glucose data from the remote apparatus to the first processing unit

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being according to a transmit command. of the one or more script programs stored for access by the first processing apparatus (Fujimoto: Col. 8, Ln. 8-39).

the physiological condition including diabetes, the measuring device including a blood glucose measurement device, and the measuring device measurement data including blood glucose data.

9. Claims 92-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,339,821 to Fujimoto as applied to Claim 91 above and in view of US Patent Number 6,421,633 to Heinonen.

(A) As per claim 92, Fujimoto does not teach that the physiological condition includes diabetes, the measuring device includes a blood glucose measurement device, and the monitoring device measurement data includes blood glucose data, however these features are well known in the art as evidenced by Heinonen (Col. 1, Ln. 9-23-Col. 3, Ln. 53-Col. 4, Ln. 34). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have added these aforementioned features from Heinonen to the storage device of Fujimoto with the motivation of providing a patient with a means of regularly checking their blood glucose level using a self-testing kit, as recited in Heinonen (Col. 1, Ln. 9-11).

(B) As per claim 93, the combined readable storage device of Fujimoto in view of Heinonen includes generating a report based upon the collected blood glucose measurement data (Fujimoto: Col. 8, Ln. 35-40).

(C) As per claim 94, the combined readable storage device of Fujimoto in view of Heinonen includes transmitting the report to a workstation connected with the first processing unit (Fujimoto: Col. 8, Ln. 8-39).

(D) As per claim 95, the combined readable storage device of Fujimoto in view of Heinonen includes a graph including several blood glucose data measurements (Fujimoto: Col. 8, Ln. 31-39).

(E) As per claim 96, the combined readable storage device of Fujimoto in view of Heinonen includes collecting device measurement data by the remote apparatus from the measuring device

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according to a collect command of one or more script programs received from the first processing apparatus (Fujimoto: Col. 4, Ln. 13-68).

(F) As per claim 97, the combined readable storage device of Fujimoto in view of Heinonen includes prompting for device connection to the remote processing apparatus; and connecting the remote processing apparatus to interface with the blood glucose measurement device (Fujimoto: Col. 3, Ln. 7-29 and Col. 7, Ln. 63-Col. 8, Ln. 7).

10. Claims 99-104 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,339,821 to Fujimoto as applied to Claim 91 above and in view of US Patent Number 6,421,633 to Heinonen.

(A) As per claim 99, Fujimoto does not teach that the physiological condition includes diabetes, the measuring device includes a blood glucose measurement device, and the monitoring device measurement data includes blood glucose data, however these features are well known in the art as evidenced by Heinonen (Col. 1, Ln. 9-23-Col. 3, Ln. 53-Col. 4, Ln. 34). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have added these aforementioned features from Heinonen to the storage device of Fujimoto with the motivation of providing a patient with a means of regularly checking their blood glucose level using a self-testing kit, as recited in Heinonen (Col. 1, Ln. 9-11).

(B) As per claim 100, the combined storage device of Fujimoto in view of Heinonen includes generating a report based upon the collected blood glucose measurement data (Fujimoto: Col. 8, Ln. 35-40).

(C) As per claim 101, the combined storage device of Fujimoto in view of Heinonen includes transmitting the report to a workstation connected with the first processing unit (Fujimoto: Col. 8, Ln. 8-38).

(D) As per claim 102, the combined storage device of Fujimoto in view of Heinonen includes a graph including several blood glucose data measurements (Fujimoto: Col. 8, Ln. 31-39)

(E) As per claim 103, the combined storage device of Fujimoto in view of Heinonen includes a step of prompting for device connection to the remote processing apparatus; and

connecting the remote processing apparatus to interface with the blood glucose measurement device (Fujimoto: Col. 3, Ln. 7-29 and Col. 7, Ln. 63-Col. 8, Ln. 7).

(F) As per claim 104, the combined storage device of Fujimoto in view of Heinonen includes transmitting the device measurement data from the remote apparatus to the first processing unit being according to a transmit command of the one or more script programs stored for access by the first processing apparatus (Fujimoto: Col. 4, Ln. 14-68 and Col. 8, Ln. 8-38).

Conclusion

11. Any inquire concerning this communication or earlier communications from the examiner should be directed to Vivek Koppikar, whose telephone number is (571) 272-5109. The examiner can normally be reached from Monday to Friday between 8 AM and 4:30 PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. The fax telephone number for this group is (703) 305-7687 (for official communications including After Final communications labeled "Box AF").

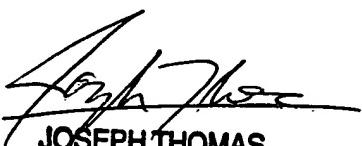
Another resource that is available to applicants is the Patent Application Information Retrieval (PAIR). Information regarding the status of an application can be obtained from the (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAX. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, please feel free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Sincerely,


Vivek Koppikar

9/28/2005


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER